



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,935	09/15/2003	Roland Lagasse	60,137-167; 009-3018-	2028

26096 7590 02/08/2005
CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

EXAMINER

FETSUGA, ROBERT M

ART UNIT	PAPER NUMBER
----------	--------------

3751

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/662,935

Applicant(s)

LAGASSE, ROLAND

Examiner

Robert M. Fetsuga

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/15/03 & 11/24/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3751

1. The indication of allowability of claims 8, 12 and 16 in the Office action mailed October 15, 2004 is hereby rescinded.
2. The drawings are objected to because reference numeral "28" apparently should be --24-- in Fig. 2, Fig. 3 apparently should include a "Prior Art" legend (par. 13), reference numeral "42" (par. 18 ln. 4) is missing, reference character "X" (par. 19 ln. 4) is missing, and the leader associated with reference numeral "64" (par. 19 ln. 9) is misdirected in Fig. 3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing

Art Unit: 3751

figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Applicant is advised the proposed drawing correction filed November 24, 2004 does not comply with 37 CFR 121(d). This formality is inconsequential as further amendment to the drawings appears to be necessary. The proposed corrections should be reflected on any further drawing correction. Furthermore, "formal" drawings have not yet been required by the Office and should not be filed until so requested to avoid confusion.

3. The disclosure is objected to because of the following informalities: Paragraph 16, lines 2 and 4, "25" designates different elements and "cup portion" is designated by different reference numerals; paragraph 16, line 10, "28" apparently should be --22--; paragraph 19, line 3, "fluid connection 28" apparently should be --pivot connection 22-- and "28" (second occurrence) apparently should be --24--.

Appropriate correction is required.

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the

Art Unit: 3751

following is required: Proper antecedent basis for the "pivot joint connection portion" set forth in claims 1 and 9, and "extending axially" language set forth in claim 13, could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

5. Claims 7, 11 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 appears redundant to claim 6. Claims 11 and 15 are similarly indefinite.

6. The claim hierarchy does not appear to be in accordance with MPEP 608.01(m). Claims remaining at allowance may require renumbering.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3751

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 13, 16, 1, 2 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Thulin.

The Thulin reference discloses a pivot connection/mount comprising: a pair of links 20,27 including a cup 25, a threaded member 29, a cylindrical member/pivot joint connection portion 22, a pivot joint connection portion 24, and a nut 30; and a showerhead 41, as claimed. The threaded member is "immovably fixed" when the nut is tightened. The threaded member would exhibit a "non-uniform outer periphery" with a "smaller portion" since it is threaded.

9. Claims 13, 16, 1, 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren.

Although the threaded member of the Thulin pivot connection is not immovably fixed, as disclosed, attention is directed to the Warren reference which discloses an analogous pivot connection which further includes a threaded member 10 that is

Art Unit: 3751

immovably fixed (with 8). Therefore, in consideration of Warren, it would have been obvious to one of ordinary skill in the art to immovably fix the threaded member associated with the Thulin pivot connection in order to facilitate tightening of the connection. Furthermore, the threaded member of Warren includes a non-uniform outer periphery (Fig. 3).

10. Claims 14, 15, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren as applied to claims 13 and 1 above, and further in view of Smith et al.

The Thulin cup 25 includes a boss and ledge (Fig. 7), and the cylindrical member/pivot joint connection portion 22 includes a ledge (at 28). Therefore, Thulin and Warren teach all claimed elements except for the cylindrical member/pivot joint connection portion including a boss.

Although the cylindrical member/pivot joint connection portion of the Thulin pivot connection does not include a boss, as claimed, attention is directed to the Smith et al. (Smith) reference which discloses an analogous pivot connection which further includes a cylindrical member/pivot joint connection portion B having a boss h. Therefore, in consideration of Smith, it would have been obvious to one of ordinary skill in the art to associate a boss with the Thulin cylindrical

Art Unit: 3751

member/pivot joint connection portion in order to facilitate securement.

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren as applied to claim 1 above, and further in view of Wellington.

Although the nut of the Thulin pivot connection does not include a wing nut, as claimed, attention is directed to the Wellington reference which discloses an analogous pivot connection which further includes a wing nut 20. Therefore, in consideration of Wellington, it would have been obvious to one of ordinary skill in the art to associate a wing nut with the Thulin pivot connection in order to facilitate manipulation.

12. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren as applied to claim 1 above, and further in view of Campbell.

The Thulin pivot connection further includes a cylindrical member seal 46.

Although the Thulin pivot connection does not include a nut seal, as claimed, attention is directed to the Campbell reference which discloses an analogous pivot connection which further includes a nut seal D'. Therefore, in consideration of Campbell, it would have been obvious to one of ordinary skill in

Art Unit: 3751

the art to associate a nut seal with the Thulin pivot connection in order to prevent leakage.

13. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren as applied to claim 1 above, and further in view of Judell '930.

Although the Thulin mount does not include a third link and second pivot, as claimed, attention is directed to the Judell '930 (Judell) reference which discloses an analogous mount which further includes a third link 26 and second pivot 22 where the second pivot is substantially identical to a first pivot 22'. Therefore, in consideration of Judell, it would have been obvious to one of ordinary skill in the art to associate a third link and substantially identical second pivot with the Thulin mount in order to facilitate showerhead manipulation.

14. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thulin and Warren as applied to claim 1 above, and further in view of Judell and Smith.

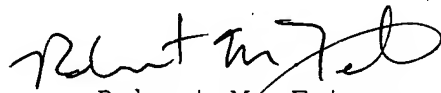
The claims merely reiterate the above discussed subject matter.

15. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3751

16. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

17. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday.

A handwritten signature in black ink, appearing to read 'Robert M. Fetsuga', is positioned above the printed name.

Robert M. Fetsuga
Primary Examiner
Art Unit 3751